Department of Justice

JUSTICE DEPARTMENT FILES LAWSUIT AGAINST COMPUTER ASSOCIATES FOR ILLEGAL PRE-MERGER COORDINATION

Department Seeks a Total of $1.267 Million in Civil Penalties

WASHINGTON, D.C. -- The Department of Justice today filed a civil antitrust lawsuit against Computer Associates International Inc. and Platinum *technology* International *inc*. for violating pre-merger waiting period requirements and price fixing laws by agreeing that Platinum would limit the price discounts and other terms it offered its customers during the mandatory pre-merger waiting period. This conduct, known as "gun jumping," violated the pre-merger review structure established under the Hart-Scott-Rodino (HSR) Act of 1976, as well as Section 1 of the Sherman Act.

The Department's complaint seeks a total civil penalty of $1.267 million – Computer Associates and Platinum each paying a maximum fine of $638,000 – and a prohibition on Computer Associates from engaging in similar conduct in the future.

On March 29, 1999, Computer Associates announced a $3.5 billion cash tender offer for Platinum, and both companies subsequently filed the pre-merger notification forms required by the HSR Act. Prior to the merger announcement, Computer Associates and Platinum aggressively competed in numerous computer software markets. The merger agreement imposed extraordinary conduct of business restrictions on Platinum, preventing certain competitive

activities during the HSR waiting period. Platinum needed Computer Associates' approval

before entering into contracts with its customers that provided for discounts of more than

20 percent off of list price or that amended standard contract terms. During the HSR waiting

period, Computer Associates installed one of its employees at Platinum's headquarters to review

and approve customer contracts and undertake other activities related to the management of

Platinum.

"By assuming control of Platinum before the expiration of the required waiting period

while the Justice Department was investigating the legality of the proposed acquisition, Computer

Associates failed to obey the law," said Charles A. James, Assistant Attorney General in charge of

the Department's Antitrust Division. "This conduct prematurely reduced competition between the

companies. Merging parties must strictly adhere to the requirements of the HSR Act and maintain

their companies as separate and independent competitors during the HSR waiting period."

The HSR Act requires companies planning acquisitions or mergers that meet certain

thresholds to file premerger notification documents with the Justice Department and the Federal

Trade Commission. The HSR Act also requires that the merging parties observe a mandatory

waiting period, after which the companies may go ahead with the transaction. The purpose of the

waiting period is to give the antitrust agencies an opportunity to investigate proposed transactions

and determine whether they would violate the antitrust laws. If the government determines that a

transaction would violate the antitrust laws, it typically acts before the waiting period expires.

Parties are subject to a maximum civil penalty of $11,000 a day for each day they are have been

found to be in violation of the HSR Act.

Computer Associates, a Delaware corporation, is headquartered in Islandia, N.Y. It had

fiscal year 2001 revenues in excess of $4.1 billion. Platinum, before the acquisition, was a

Delaware corporation headquartered in Oakbrook Terrace, Ill., with fiscal year 1998 revenues in

excess of $968 million. Computer Associates' acquisition of Platinum was challenged by the

Justice Department in May 1999, and the case was settled when Computer Associates agreed to

divest Platinum products and related assets in six mainframe systems management software

markets.

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